IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 31ST MAY 2007 / 10TH JYAISHTA 1929

WP(C).No. 15152 of 2005(D)

AGAINST THE ORDER IN EP 168/2003 IN
ARC.1159/2001 of PRL.SUB COURT,THRISSUR

.....

PETITIONER:

A.M. KHADAR, S/O. AMBALATHUVEETTIL
MUKHARIKUTTI, AGED 52 YEARS, RESIDING AT
ERANELLOOR VILLAGE, PERUMANNA DESOM,
THALAPPILLY TALUK, TRICHUR DISTRICT.

BY ADV. SRI.AVM.SALAHUDIN

RESPONDENT:

KUNNAMKULAM HOUSING CO-OPERATIVE
SOCIETY REPRESENTED BY SECRETARY,
KUNNAMKULAM.

BY ADV. SRI.MADHU N.NAMBOOTHIRIPAD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 31/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX(WPC NO.15152 OF 2005)

PETITIONER'S EXTS.:

EXT.P1: TRUE COPY OF THE EXECUTION PETITION EP NO.168/03 IN ARC 1159/01 OF THE SUB COURT, THRISSUR.

EXT.P2: TRUE COPY OF THE OBJECTION DATED 16.8.2003 FILED IN EXT.P1 APPLICATION.

EXT.P3: TRUE COPY OF THE PROCLAMATION DATED 5.5.2005 ISSUED IN EXT.P1 APPLICATION.

PIUS C. KURIAKOSE,J.

- -

W.P.(C) No.15152 of 2005

- -

Dated: 31st May, 2007

JUDGMENT

This proceeding under Article 227 of the Constitution is initiated by the judgment-debtor who suffered a mortgage decree which was sought to be executed by sale of the decree schedule property. The contention which was seriously raised in the reply to the notice for settlement of the draft sale proclamation was that it is not necessary to sell the entire property but it will suffice if a portion of the property is sold.

2. The Writ Petition was admitted and stay was granted by this court as far back as on 20.5.2005. If the petitioner was sincere he could have identified a purchaser for the property and got any portion of the property sold for an amount sufficient to discharge the decree debt. Even then, I am inclined to dispose of the Writ Petition extending the stay presently issued for another four months from today. It is open to the petitioner to identify a purchaser for any portion of the property in question in the meanwhile and take him to the respondent and sell the property or its portion with the concurrence of the respondent and the court below. If the court below finds that the decree debt is not settled within four months

from today, the court below will continue with the execution proceedings in accordance with law.

The Writ Petition is disposed of as above. No costs.

srd **PIUS C.KURIAKOSE, JUDGE**